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HIGH COURT OF CHHATTISGARH BILASPUR

CRIMINAL APPEAL NO. 362 OF 2002

DIVISION BENCH **HON'BLE SHRI L.C. BHADOO, &**
HON'BLE SHRI DHIRENDRA MISHRA, JJ

APPELLANT Dinesh Kumar

Versus

RESPONDENT : State of Chhattisgarh

JUDGMENT FOR CONSIDERATION

Sd/-
DHIRENDRA MISHRA
Judge

HON'BLE SHRI L.C. BHADOO, J

Sd/-
L.C.BHADOO
Judge

POST ON 20th JULY 2007

Sd/-
Dhirendra Mishra
Judge

(29)

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CRIMINAL APPEAL NO. 362 of 2002

DIVISION BENCH **HON'BLE SHRI L.C. BHADOO, &**
HON'BLE SHRI DHIRENDRA MISHRA, JJ

APPELLANT

Dinesh Kumar,
S/o Jagdish Prasad Baret,
Aged about 36 years,
R/o Bhurwadih, P.S. Baradwar,
District Janjgir, Present Address –
Pathripara, Korba, District Korba
(C.G.)

Versus

RESPONDENT :

State of Chhattisgarh,
Through : Thana Incharge, P.S.
Kotwali, Korba, District Korba
(C.G.)

Present

Mr. Shailendra Dubey, with Mr. N. Shrivastava, counsel for the accused/appellant.
Mr. Akhil Mishra, P.L. for the State/respondent.

J U D G M E N T
(20th July 2007)

Per Dhirendra Mishra, J

The appellant has preferred this appeal under Section 374 of the Code of Criminal Procedure against the judgment dated 25th January 2002 passed in Special Criminal Case No. 43/2000 whereby learned Special Judge, Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989, Bilaspur (C.G.) has convicted the appellant under Sections 302, 201 of the Indian Penal Code and 3(2)(5) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity 'the Atrocities Act') and sentenced him to undergo imprisonment for life, pay a fine of Rs. 500/- and in default of payment of fine to further undergo simple imprisonment for three months, to undergo five years R.I., pay a fine of Rs.300/- and in default of payment of fine to further undergo simple imprisonment for two months, to undergo imprisonment for life, pay a fine of Rs.500/- and in default of payment of fine to further undergo simple imprisonment for three months, respectively. All the sentences have been directed to run concurrently.

2. Case of the prosecution, in brief, is that deceased Mamta Suryavanshi, aged about 24-25 years, was in love with accused Dinesh Kumar. She resided with Dinesh. There was a dispute

between the two as she went with Rohit Chandra in the meanwhile. The accused assaulted Mamta on her neck and thereafter, caused her death by strangulating with the help of rope in his house and with a purpose to dispose of her dead body, he discussed with his acquaintances namely Preetam Rathore, Devidas Mahant etc. However, when they did not help him, he himself threw the dead body in the bushes situated at a distance of one furlong from his tenanted house for disappearance of the evidence of offence. After the dead body was seen on 1st June 2000, Kuresha Begum (PW-6) gave intimation to the police station, on which Merg intimation of Ex.P/2 was registered in Police Outpost Rampur, Korba on 1.6.2000 around 8.05 a.m. Thereafter, Dehati Nalishi of Ex.P/26 was registered on 1.6.2000 at 19.45 hours in police outpost. Inquest over the dead body was prepared vide Ex.P/5 after due notice to the witnesses in their presence. The dead body was sent for autopsy vide Ex.P/25 to Hundred Bedded Govt. Hospital, Korba where Dr. D.K. Shrivastava and Dr. (Smt.) Sujata Shrivastava conducted postmortem and submitted their report of Ex.P/1. Spot map was got prepared by Halka Patwari Chhatrapal Singh Maravi (PW-3) vide Ex.P/3. From the place of occurrence bloodstained and plain mortar were taken into possession after removing the same from the floor of the house of Anil Daharia and one golden coloured lock was also seized vide Ex.P/6. The golden coloured tops, bloodstained white polythene, one bloodstained bag and one bloodstained plastic sack were taken into possession from the place of occurrence vide Ex.P/7. The SHO prepared spot map vide Ex.P/8. One nylon rope, one bloodstained bed-sheet, one bloodstained full terricot shirt, one bloodstained black pant, one steel trunk and key of the room were taken into possession vide Ex.P/9. Memorandum of Ex.P/17 of the accused was recorded under Section 27 of the Indian Evidence Act and on the basis of disclosure statement the wearing apparels of the accused, nylon rope, blood stained bed-sheet in trunk, etc. were taken into possession from the accused vide Ex.P/9 & Ex.P/10. After post mortem, the clothing of deceased was seized vide Ex.P/18. The seized articles were sent for chemical analysis to Forensic Science Laboratory, Sagar vide Ex.P/20 and the F.S.L. report is Ex.P/30. The seized articles i.e earth from the place of occurrence, *kurta* of the deceased, shirt, pant, bed-sheet and handkerchief of the accused were further sent to serologist for confirmation of origin and group of the blood and report of the

serologist is Ex.P/31. The caste certificate (Ex.P/22) of deceased Mamta Suryavanshi was also obtained.

3. After completing investigation charge sheet was filed in the Court of Chief Judicial Magistrate, Korba who in turn committed the case to the Court of Special Judge, Atrocities Act, Bilaspur for trial.

4. Learned Special Judge framed charges under Section 302, 201 of the IPC and 3(2)(5) of the Atrocities Act. The accused/appellant abjured his guilt. Prosecution in order to establish the charges against the accused/appellant examined 23 witnesses in all. Thereafter, statement of the accused was recorded under Section 313 of the Cr.P.C. in which he denied the circumstances appearing against him in the prosecution case and pleaded innocence and false implication by the police. However, learned Special Judge after hearing counsel for the respective parties, convicted and sentenced the accused/appellant as mentioned in paragraph 1 of this judgment.

5. Learned counsel for the accused/appellant disputed the homicidal death of deceased Mamta and contended that the prosecution has failed to prove the cause of death of deceased Mamta Suryavanshi as the doctors performing autopsy have not given a definite opinion regarding the cause of death and there was no sign of asphyxia found by the doctors, therefore, findings of the trial Court that deceased Mamta died due to asphyxia as a result of strangulation is without any material available on record.

6. Learned counsel further submitted that the appellant has been convicted on the basis of circumstantial evidence. The first circumstance on which the conviction is based is that the appellant was last seen in the company of the deceased while she was alive and to establish this circumstance the learned trial Court has relied upon the statements of Anil Kumar Daharia (PW-4) and Kuresha Begum (PW-6). However, the statements of these witnesses do not inspire confidence as they were not acquainted with the deceased and they were not even aware of her name. The other circumstantial evidence is that the house which was given to the appellant on rent was locked since 29th May 2000 and when it was opened after breaking the lock, foul smell was emanating and various articles were found scattered including bloodstained *baniyan,* single ear ring under the broom and other ear ring was found on the person of the deceased. It is argued

30

that no identification has been conducted to ascertain whether the ear ring found from the house of the appellant belonged to the deceased or it matched with the other ear ring found on the person of the deceased. The conviction is also based on the recovery of bloodstained pant, petticoat, handkerchief on the memorandum of the accused and report of serologist who has confirmed the presence of human blood on them and the appellant has not offered any explanation for the same. Learned counsel for the appellant submitted that recovery of bloodstained articles at the instance of the accused is meaningless because the blood group has not been confirmed and it is not established that blood present over the seized articles were that of the deceased.

7. It is further argued that heavy reliance has been placed by the trial Court on the statement of Preetam Kumar Rathore (PW-7) who claimed that the appellant made extra judicial confession before him. However, the trial Court has ignored this fact that conduct of this witness is doubtful and no credence can be placed on the evidence of this witness as alleged extra judicial confession was made before him on 30th May 2000 and he did not disclose this fact to anyone till 1st June 2000, the date on which dead body was discovered, and from the evidence available on record it would be evident that the police also suspected involvement of this witness in the aforesaid crime. It is argued that the trial Court has also convicted the appellant under Section 3(2)(5) of the Atrocities Act only on the ground that the deceased belonged to scheduled caste though there is no evidence to prove that the offence was committed on the basis of caste.

8. Reliance is placed on the judgments in the matters of **Masumsha Hasanasha Musalman Vs. State of Maharashtra** reported in **2000 Cr.L.R. (SC) 431, Balbir Singh & Anr. Vs. State of Punjab** reported in **1996(3) Crimes 80 (SC), Hatti Singh Vs. State of Haryana** reported in **[2007 (54) AIC 70 (S.C.)], State of Andhra Pradesh Vs. Patnam Anandam** reported in **2005(1) Crimes 126 (SC), Balwinder Singh Vs. State of Punjab** reported in **1995 Cr.L.R. (SC) 738** and **V. Vijay Kumar Vs. State of Kerala** reported in **[2000 (1) C.Cr.J. 150 (S.C.)].**

9. On the other hand, learned counsel for the State/respondent supported impugned judgment of the trial Court.

(31)

10. We have heard learned counsel for the respective parties and perused the material available on record including the impugned judgment.

11. So far as argument advanced by learned counsel for the appellant that finding of the trial Court that deceased Mamta Suryavanshi died homicidal death is without any material available on record, is concerned, Dr. D.K. Shrivastava (PW-1) conducted postmortem over the person of the deceased on 1st June 2000 and opined that Mamta Suryavanshi died some 48-72 hours prior to commencement of the postmortem examination i.e. 7.00 p.m. and found following injuries:

On external examination

1. The body was swollen, face disfigured, foul smell was emanating, maggots of approximately equal size were present over every part of the body, hairs loosen, skin of the legs was peeling off easily, face, upper chest & both limbs blackened, neck comparatively light brown in colour, tongue protruded 2 cm from inciser with no bite mark. Rigor mortis present on both lower limbs, partial on upper limb and not on neck.
2. On examination of neck, just below angle of mandible 1 ½ cm thick horizontally placed, brown coloured mark and tapering end on lateral side, running from 2 cm right to midline, to laterally up to the below to the angle of mandible, right 1 ½ cm thick brown coloured mark on postero-lateral neck, on the outer side of the back of the neck 0.5 in length, the mark was below 5 cm. of the right jaw.
3. No mark of injuries was found on other parts of the body.
4. Veins over the chest and thighs were swollen.
5. Swelling present over the forehead just in the center, on incision no blood or contusion was found.

On internal examination

B2

Congestion was found on the right & left lungs, they were soften, liver & kidney were congested and rest of the organs were found normal.

The cause of death was asphyxia as a result of throttling leading to shock & death.

12. From the evidence of the doctor performing autopsy it is evident that putrefaction of the dead body had commenced as skin of the dead body was peeling off easily. The doctor on external examination found the tongue protruded 2 cm from inciser. On examination of neck he found horizontally brown coloured mark on the lateral side of the neck at 2 cm right to midline, another 1 ½ cm thick brown coloured mark on postero-lateral neck, on the outer side of back of the neck 0.5 cm in length. On internal examination he found congestion in right, left lungs, liver and kidney and on the basis of these symptoms the doctor opined that cause of death of deceased Mamta Suryavanshi was asphyxia as a result of throttling leading to shock and death.

13. Taking into consideration the fact that postmortem was performed when putrefaction of the dead body had set in, the opinion of the doctor based on his report reproduced hereinabove, that Mamta Suryavanshi died due to asphyxia as a result of throttling, cannot be faulted. Apart from the medical evidence, from the statement of Preetam Kumar Rathore (PW-7), before whom the appellant made extra judicial confession, it is established that death of Mamta Suryavanshi was homicidal in nature.

14. There is no eyewitness to the incident and conviction of the appellant is based on circumstantial evidence. To base conviction on circumstantial evidence as per settled law, the prosecution is required to establish that the chain of circumstances relied upon by the prosecution only consistently points towards guilt of the accused and is inconsistent with his innocence. Circumstances, as is well known, from which an inference of guilt is sought to be drawn are required to be cogently and firmly established. They have to be taken into consideration cumulatively. They must be able to conclude that within all human probability the accused committed the crime as held by the Hon'ble Supreme Court in the matter of **Hatti Singh** (supra) relied upon by learned counsel for the appellant.

15. Learned trial Court has based conviction of the appellant on the following circumstances:

(i) that the appellant was last seen in the company of deceased Mamta Suryavanshi while she was alive;

(ii) that house of the appellant remained locked since 29th May 2000 and when it was opened after breaking the lock foul smell was emanating and bloodstained incriminating articles were found there;

(iii) that on the memorandum of the appellant bloodstained pant, petticoat, handkerchief etc. were recovered and after examination the same were found stained with human blood; and

(iv) that the appellant made extra judicial confession before Preetam Kumar Rathore (PW-7).

16. So far as the first circumstance is concerned, PW-4 Anil Kumar Daharia has stated that the appellant had contacted him with the reference of Preetam Rathore for obtaining his house on hire and thereafter, took the possession on 18.5.2000. Dinesh has told him that he shall be residing with his wife and sister who is working in the nursing home. He started living in his house since 23rd/24th June 2000. On Monday 29th June, later on said that it was 29th May, accused went towards Ganesh Pandla along with a fair complexioned woman at about 5.30 p.m. The woman was putting on pink coloured sari. On 1st June there was a commotion that dead body of a girl has been found in the bushes. His son Durgesh was taken to the police station. He was also taken to police station. The police informed that a girl has been murdered in his house, by that time he was not aware of name of the deceased and subsequently, he learnt that she was Mamta Suryavanshi. He has further stated that after 29th May when he saw the accused with that fair complexioned girl, his house remained locked.

17. PW-5 Chhabilal Daharia is a newspaper hawker. He has stated that Dinesh resided in the house of Anil Daharia beside his house. He

34

resided with a lady and a girl. On 29th May 2000 when he returned home from the market at about 7.00 in the evening his wife informed him that she heard sound of weeping from the side of Dinesh Chandra's house. On 1st June he learnt that a dead body is lying in the bushes. This witness has also stated that on 30th May he found the house of Dinesh locked.

18. PW-6 Kuresha Begum has lodged the complaint. She is a social worker. She has stated that on 1st June Jamuna Bai told her that a dead body has been found in the bushes, upon which she gave this information to the police. The dead body was of a girl. Police prepared inquest of Ex.P/5 in her presence. On enquiry the son of Anil Daharia told that they had rented the house to Dinesh on the recommendation of Preetam Rathore. The lock of the house was broken, foul smell was coming out from the house, a purse, slipper, petticoat, *kurta,* torn vest were lying there. One bloodstained polythene, a piece of wire, bloodstained floor were also seized. The ear ring found under the broom and the other such ear ring found in the ear of the deceased were seized. The accused Dinesh and Mamta Suryavanshi were residing in the house from where the bloodstained articles were seized. The age of the deceased was 22-23 years. In cross-examination this witness has stated that the house of Daharia is about 60-70 yards away from her house, she was not acquainted with Dinesh and Mamta since before. Prior to the discovery of dead body, she had seen Mamta and Dinesh sitting in the courtyard in front of her house, till then she was not knowing her name and she only knew that one man and woman resided there. She had admitted that when she saw the dead body first time, she could not identify whether it was a body of male or female.

19. PW-7 Preetam Kumar Rathore has also stated in paragraph-5 that he went to the house of Dinesh at about 7.00 p.m., the outer gate of the house was open, however, door of the house was bolted from inside and on being called there was no response. However, Dinesh opened the door after sometime.

20. These witnesses have been cross-examined at length by the defence and they have stuck to their claim that they saw the deceased in the company of the appellant on 29th May when she was alive in the

house of the appellant. Thus, the first circumstance of last seen is held to be established.

21. So far as the second circumstance is concerned, PW-4 Anil Kumar Daharia has stated in paragraph – 6 that after 29th may when he saw the appellant and the deceased in the house, the house was locked and next day he learnt that the accused has absconded after murdering Mamta. PW-5 Chhabilal Daharia has also stated that he saw house of the appellant locked on 30th May 2000. PW-6 Kuresha Begum has stated that inquest over the dead body of the deceased was prepared in her presence and at the time of inquest she had seen one ear ring in the ear of the deceased. After inquest, lock of the house was opened, before opening the lock window was opened. In paragraph-4 of her statement she has stated that lock of the house was broken, foul smell was emanating from inside the house, purse, slippers, petticoat, *kurta,* torn vest by which blood was cleaned and bloodstained polythene were lying there. The bloodstained floor was taken into possession, the ear ring was also seized from under the broom and other pair of ear ring was present in the ear of the deceased. PW-23 Akhil Pandey, the Head Constable, has also stated that he prepared inquest over the person of the deceased vide Ex.P/5. He has further stated that on 1.6.2000 at about 14.40 hours he had seized the bloodstained cement, plain cement, broken lock vide Ex.P/6 and also seized golden coloured tops, bloodstained white coloured polythene, terricot bag and plastic sack from the house of Anil Daharia which was let on hire to appellant Dinesh. In cross-examination he has stated that the witnesses of the inquest were not aware of name of the deceased but they had stated that the deceased girl resided in the house of Anil Daharia. From perusal of the inquest report of Ex.P/5 also we find that this fact is mentioned there and it is also mentioned in the inquest that deceased was putting on tops in one ear. Thus, from the evidence of these witnesses it is established that house of the appellant remained locked since 29th May 2000 and when it was opened after breaking the lock, foul smell was emanating from inside the house and one of the ear rings was found under the broom whereas another was in the ear of the deceased.

22. So far as the third circumstance is concerned, PW-19 Mukesh Singh, the witness of memorandum has turned hostile. However, he has admitted his signature over the memorandum. PW-7 Preetam

(36)

Kumar Rathore has stated that Dinesh was brought from Badesar and near Khokhsa gate, he led to the recovery of nylon rope, quilt cover, blouse, petticoat, sweater, two *dupattas,* shawl, three shirts, *salwar,* shirt of white collar etc. and the same were recovered vide Ex.P/9 and P/10. He has also proved the memorandum of Ex.P/17. The statement of this witness is further corroborated by the statement of investigating officer Swyamvar Singh. The seized articles were sent for examination to F.S.L. and over the articles namely pant, bed-sheet, handkerchief, human blood was found as per report of the serologists. However, the appellant has not explained the circumstances under which the articles seized in pursuance of his memorandum were found stained with human blood.

23. PW-7 Preetam Rathore, was acquainted with the appellant as he had obtained possession of the house where the incident took place, on the basis of reference of this witness. There is evidence available on record that the deceased and the appellant had gone to Jarve and Dinesh had borrowed compass box from this witness. He has further stated that 20-25 days thereafter, he met Dinesh and had gone to the house of Dinesh and after 7-9 days Dinesh came to him and asked for Rs.500/- for payment of labourers, therefore, he arranged for him Rs. 500/-, which he had borrowed from his friend Banti Agrawal. He has further stated that he along with Banti Agrawal went to the house of Dinesh on 29th May as Dinesh had not returned Rs.500/- to his friend Banti Agrawal and met Dinesh in his house at about 7.00 in the evening. Dinesh promised to return the money within a day or two. On 30th May 2000 this witness met Dinesh in front of his house, at that time Dinesh took him aside and disclosed that he has committed 302 and asked for help. On further enquiry he has stated that I have murdered Mamta and asked for his help to dispose of the dead body, to which he refused. On 31st May in the morning he met him on the square when Dinesh was going by Auto to his village. He has admitted that he did not disclose this fact to anyone nor he reported the matter to the police. He did not disclose this fact to even Banti, however, when police called him on 1st June, then he disclosed. He was detained by the police till 10.00 p.m. of 2nd June. Apart form other omissions in the cross-examination, omission regarding commission of 302 of IPC by him has also been pointed out in diary statement of Ex.D/2. However, from perusal of the diary statement of Ex.D/2, it is observed that this witness had stated in his diary

(37)

statement that the appellant had confessed murdering Mamta by pressing her neck. Thus, from perusal of the statement of Ex.D/2, we observe that the appellant had stated before this witness that he had murdered Mamta by pressing her neck and has also asked for his help in disposing of the dead body. The other omissions regarding borrowing of Rs.500/- and meeting Dinesh in his house on 29th May etc. are present in the diary statement of Ex.D/2 of this witness, however, from the evidence of other witnesses, we are of the opinion that the appellant and PW-7 were known to each other since before and as such, the fourth circumstance that the accused made extra judicial confession before this witness is also established.

24. In the matter of **Hatti Singh** (supra) it has been held by Hon'ble the Supreme Court that the circumstantial evidence of last seen with the deceased in itself is not sufficient as the same does not provide complete chain of linking evidence which can lead to only inference of guilt of the appellant.

25. In the matter of **State of Andhra Pradesh Vs. Patnam Anandam** (supra) conviction of the accused persons in that case was based on the evidence of last seen, seizure of a torn piece of shirt and two buttons at the scene of offence which matched with the shirt seized from the house of the accused and on the third circumstance that the accused gave false statement that his wife died of poisoning whereas she was brutally assaulted with some blunt object. However, recovery of torn piece of shirt and buttons found at the scene of occurrence which matched with the shirt seized from the house of the accused, has been disbelieved on the ground that colour of the shirt pocket found has not been disclosed in the Panchnama and apart from that no evidence was adduced to establish that the piece of cloth found at the place of occurrence was really a part of the shirt recovered at the instance of the respondent i.e. the accused as no witness said so. This incriminating circumstance was not even put to the accused in his examination under Section 313 of Cr.P.C. However, in the instant case no such infirmity exists as Kuresha Begum, the independent witness, has categorically stated that on opening lock of the house of the accused, foul smell was emanating and bloodstained articles including one ear ring was seized from the house under the broom and the same other ear ring was found in the ear of the deceased. The

above fact is also mentioned in the inquest report and there is no cross-examination of this witness in this regard.

26. In the matter of **V.Vijay Kumar** (supra) also conviction of the accused was based on the circumstantial evidence. The only incriminating circumstance was presence of human blood in the room and lungi of the accused. The Hon'ble Apex Court considering that blood group of the accused was not examined and there was no evidence that the bloodstained lungi belonged to the accused, held that the accused was entitled for benefit of doubt.

27. Similarly, in the matter of **Balwinder Singh** (supra), conviction is based on circumstantial evidence. The conviction was based on the circumstance of last seen together and confession. The Hon'ble Supreme Court considering that the circumstance of last seen together was not clearly established, the confession in that case was not proved and further considering that the extra judicial confession is a weak type of evidence and also considering the delay in lodging the F.I.R., held that the prosecution has failed to establish guilt of the accused with the help of clinching circumstantial evidence.

28. In the matter of **Balbir Singh** (supra) also conviction of the accused was based on the circumstantial evidence of motive, medical evidence, foot print at the spot, recovery of amulet and shirt and extra judicial confession by the accused. Considering that only two foot prints were found on the place of incident whereas the number of accused was admittedly two, therefore, they ought to have found four foot prints and since there was no explanation by the prosecution in this behalf and further considering that the foot prints were not identified and recovery under Section 27 of the Indian Evidence Act, is a weak type of evidence and also considering the witness of extra judicial confession untrustworthy, the Hon'ble Supreme Court extended benefit of doubt to the accused persons. However, in the instant case, all the four circumstances as detailed in the foregoing paragraphs, have been established by the prosecution by adducing reliable evidence, which inspires our confidence. The aforesaid judgments cited by counsel for the appellant are distinguishable on facts.

29. Thus, on the basis of aforesaid analysis, we are of the considered opinion that the prosecution has been able to establish the

(39)

charges under Sections 302 & 201 of the IPC against the accused/appellant through circumstantial evidence. These circumstances have been proved independently and by the chain of circumstances the prosecution has been able to establish guilt of the appellant beyond reasonable doubt, which is inconsistent with the innocence of the deceased and the same leads to irresistible conclusion that the appellant after causing death of Mamta Suryavanshi in the tenanted premises had disposed of her dead body in the nearby bushes with a view to screen himself from the legal punishment for commission of murder.

30. Therefore, we are of the considered opinion that there is no illegality or infirmity in the impugned judgment of the trial Court whereby the appellant has been convicted under Sections 302 & 201 of the IPC and sentenced accordingly. However, conviction of the appellant under Section 3(2)(5) of the Atrocities Act cannot be sustained because though the prosecution has been able to establish that the deceased belonged to scheduled caste community, but there is no evidence available on record to show that the appellant committed her murder on the basis of caste, on the contrary, as per case of the prosecution the appellant and the deceased were intimately related and motive attributed to the appellant for causing death of Mamta was that she developed relations with one Rohit Chandra.

31. In the result, following the principles of law laid down by the Hon'ble Supreme Court in the matter of **Masumsha Hasanasha Musalman** (supra), we allow the appeal of accused/appellant so far as it relates to his conviction under Section 3 (2) (5) of Atrocities Act and set aside the sentence passed thereon. However, appeal of the accused/appellant against his conviction and sentence under Sections 302 and 201 of the IPC is dismissed.

The appeal is accordingly disposed of.

Sd/-
L.C.BHADOO
Judge

Sd/-
Dhirendra Mishra
Judge

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